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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,779	01/02/2004	Susumu Takada	7176.3007.001	1505
23399	7590	10/28/2004	EXAMINER	
REISING, ETHINGTON, BARNES, KISSELLE, P.C.			DAVIS, OCTAVIA L	
P O BOX 4390			ART UNIT	PAPER NUMBER
TROY, MI 48099-4390			2855	

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center">Office Action Summary</p>	Application No. 10/750,779	Applicant(s) TAKADA ET AL.	
	Examiner Octavia Davis	Art Unit 2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1- 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over McMahon in view of Vardoulakis et al.

Regarding claims 1, 3 – 5 and 7 - 9, McMahon discloses an extensometer for measuring strain in materials test specimen comprising a base block 12, 14, a pair of posts 16, 17 rising from the base block, a cross head 18 spanning between the pair of posts, an actuator 30 mounted on the base block or the cross head, the actuator being able to apply a load on a test piece 120 positioned between the cross head and the base block (See Col. 2, lines 11 – 30) but does not disclose that the cross head is secured to each of the posts by an elastic member of which is changeable in its jointing position with the cross head or with each of the posts to change resonance frequency of the test machine. However, Vardoulakis et al disclose a biaxial test apparatus comprising a crosshead 60 that is secured to posts 57 by member 66 is progressively reduced in its cross section and in its depth (See Col. 5, lines 28 – 56).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify McMahon according to the teachings of Vardoulakis et al for the

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purpose of, freely sliding an upper guide bar in axial directions to monitor the specimen movements or displacements (See Vardoulakis et al, Cols. 2 and 5, lines 1 – 4 and 33 – 39).

Regarding claims 2, 6 and 10, in McMahon, the cross head is a solid block.

Conclusion

3. Hurtubise et al (5,685,193) disclose a method for non-destructively proof testing the integrity of the bond between an integrally molded disc brake pad assembly.

Manahan Sr. (4,895,027) teaches a method of determining the solid behavior of solid materials by using stress field specimens.

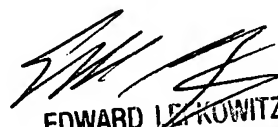
Gram et al (4,869,112) teach a screw driven actuator for a test frame.

4. Any inquiry concerning this communication should be directed to Examiner Octavia Davis at telephone number (571) 272 - 2176. The examiner can normally be reached on Monday - Thursdays (9:00 - 5:00), Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz, can be reached on (571) 272 - 2180. The fax phone number for the organization where this application where this application or proceeding is assigned is (703) 872 – 9306.

OD/2855

10/25/04


EDWARD LEFKOWITZ
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